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Resolution adopted by the Human Rights Council on 28 September 2018

39/23. Assistance to Somalia in the field of human rights

The Human Rights Council,

Guided by the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights,

Acknowledging that peace and security, development and human rights are the pillars of the United Nations system,

Reaffirming its respect for the sovereignty, territorial integrity, political independence and unity of Somalia,

Reaffirming also its previous resolutions on Somalia,

Recalling its resolutions 5/1 and 5/2 of 18 June 2007,

Recognizing that the primary responsibility for promoting and protecting human rights in Somalia rests with the Federal Government of Somalia and that enhancing the legal framework, human rights protection systems and the capacity and legitimacy of institutions is essential to help to combat impunity and to improve accountability for human rights violations and to encourage reconciliation,

Recognizing also the need for all authorities engaged in security to uphold international human rights commitments and obligations and to address abuse and the excessive use of force against civilians,

Recognizing further the importance and effectiveness of international assistance to Somalia and the continued need to step up the scale, coordination, coherence and quality of all capacity development and technical assistance to Somalia in the field of human rights at the national and federal Member State levels, and in that regard welcoming the Somalia Partnership Forums held in Mogadishu and Brussels, at which Somalia and international partners reaffirmed their commitment to the New Partnership for Somalia, which sets out the terms of international support for Somali priorities, including on human rights, and the Security Pact to provide Somali-led security and protection in accordance with international humanitarian law and international human rights law, as appropriate,

Recognizing the sustained and vital commitment of the African Union Mission in Somalia and the loss and sacrifice of personnel killed in action, and recognizing also that the commitments of the Mission and the Intergovernmental Authority on Development are

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creating the conditions for Somalia to establish political institutions and to extend State authority, which are key to laying the foundations for a staged transfer of security responsibility to Somali security forces,

Recognizing also the role that women have played and will continue to play in community mobilization and peacebuilding in Somali society, the need to take special measures to protect women and girls from gender-based violence and all other forms of violence in situations of armed conflict, to end impunity and prosecute those responsible for violence against women and girls, and the importance of promoting their economic empowerment and participation in political and public decision-making processes, including within Parliament and at all levels of government, in accordance with Security Council resolution 1325 (2000) of 31 October 2000 on women, peace and security,

1. *Welcomes* the commitment of the Federal Government of Somalia to improve the situation of human rights in Somalia, and in that regard also welcomes:

(a) The progressive improvement in the human rights context in Somalia, not least through progress towards the ambitious goals set out in the New Partnership for Somalia and the National Development Framework of Somalia to promote stability and development with respect for human rights by, inter alia, strengthening the rule of law, promoting inclusivity in political decision-making, particularly for women, young persons, minorities and persons with disabilities, delivering a constitutional settlement that guarantees freedoms of expression and association, and addressing security threats in a manner that respects human rights obligations and protects civilians;

(b) The landmark political agreement between the Federal Government and federal Member States, which paves the way for the drafting, consultation and passage of an electoral law by December 2018 as a first step towards realizing historic one-person, one-vote elections in 2020 and, in particular, the commitment of the Federal Government, federal Member States and the National Independent Election Commission to protect inclusivity in terms of ensuring equal participation and representation of women in decision-making, as well as of displaced persons, young persons, persons with disabilities, minorities and all members of disadvantaged groups, at all stages of the electoral cycle;

(c) The cooperation between representatives of the Federal Government and federal Member States, youth groups, women, civil society organizations, professional associations, religious scholars, members of the Somali diaspora, persons with disabilities and traditional elders convention in May 2018 to launch the constitutional review process in Mogadishu, recognizing the importance of an inclusive and Somali-led process that delivers a political settlement supporting ongoing efforts in peace, development and the enjoyment of all human rights in Somalia;

(d) The formulation of the transition plan, which defines transition as the emergence of effective Somali security institutions and the progressive handover of responsibility from the African Union Mission in Somalia towards increased Somali ownership for its citizens' security, appreciating, in particular, that this approach is underpinned by a focus on the rule of law, reconciliation, justice, respect for human rights and the protection of women and girls, and children;

(e) The continued commitment of the Federal Government, federal Member States and the Banadir Regional Authority to improve representation, inclusion and the participation of women in public and political affairs and, in particular, in leadership roles;

(f) The Federal Government's endorsement of the Charter for Change at the Global Disability Summit in July 2018, and its commitment to entrench the rights of persons with disabilities in social, educational, political and economic life through the first-ever bill on national disability for Somalia and other legislative mechanisms, improving the collection of data on persons with disabilities and by approving the creation of a national disability agency;

(g) The work undertaken by the Ministry for Women and Human Rights Development as the lead body of the Federal Government to advance the human rights agenda in Somalia, together with the progress in the establishment of a national human rights commission to monitor and provide accountability for violations and abuses,

including a recruitment process that guarantees the representation of women, marginalized groups and persons with disabilities;

(h) The development of and agreement on key policies and plans, including a post-transition human rights road map, a national gender policy and a national plan of action on eradicating sexual violence in conflict;

(i) Progress on key legislation, including the enactment of the child protection bill, progress towards the adoption of a bill on sexual offences and the implementation of a media law, through consultation with media organizations and civil societies, in order to provide a framework for upholding freedom of expression;

2. *Also welcomes* the continued commitment of the Federal Government to the universal periodic review process, and in this regard further welcomes its acceptance of the many recommendations made during the review and encourages their implementation;

3. *Expresses concern* at reports of violations and abuses of human rights in Somalia, and underscores the need to end impunity, to uphold respect for human rights for all and to hold accountable all those responsible for such violations and abuses and related crimes;

4. *Expresses particular concern* at the abuses and violations perpetrated against girls and women, including sexual and gender-based violence, child, early and forced marriage and all forms of female genital mutilation;

5. *Also expresses particular concern* at the abuses and violations committed against children, emphasizes the need for accountability and justice for all such violations and abuses, including the unlawful recruitment and use of child soldiers and children in armed conflict, killing and maiming, rape and other sexual and gender-based violence, abductions, and in the treatment of children recaptured from non-State armed groups, and also emphasizes the importance that such children be recognized as victims and the need to establish and implement rehabilitation and reintegration programmes, including by taking into account the specific needs of girls;

6. *Expresses concern* that internally displaced persons, including the most marginalized and vulnerable, which may include women, children and persons belonging to minority groups, are the most at risk of violence, abuse and violations;

7. *Also expresses concern* at the attacks against and harassment of human rights defenders and the media in Somalia, including journalists, especially in the form of arbitrary arrest or prolonged detention, and emphasizes the need to promote respect for freedom of expression and opinion and to end impunity, holding accountable those who commit any such related crimes;

8. *Recognizes* the efforts of those States hosting Somali refugees, urges all host States to meet their obligations under international law relating to refugees, and urges the international community to continue to provide financial support to enable host States to meet the humanitarian needs of Somali refugees in the region, to support the reintegration of those returning to Somalia when conditions are suitable, and to support internally displaced persons in Somalia;

9. *Calls upon* the Federal Government, with the support of the international community:

(a) To continue progress towards settling outstanding constitutional issues and completing the constitutional review process in an inclusive manner that promotes the building of peace and the rule of law, protects the freedoms of expression and association and includes targeted provisions that enable and facilitate the advancement of women, children, young persons, persons with disabilities, minorities and all members of disadvantaged groups in the areas of access to justice, education, health, security and economic recovery;

(b) To secure constitutional provisions for the equal representation, participation and inclusion of women, particularly in leadership and decision-making roles in public and

elected offices and the civil service through the constitutional review and other ongoing political and legislative processes;

(c) To meet commitments to deliver legislation by December 2018 that will pave the way for historic one-person, one-vote elections in 2020, and to ensure that this and other measures promote the inclusivity of these elections, particularly by ensuring the equal participation and representation of women in decision-making and in leadership positions, as well as of internally displaced persons, young persons, persons with disabilities, minorities and all members of disadvantaged groups at all stages of the electoral cycle;

(d) To realize commitments to security sector reform, including by ensuring the active participation of women in the implementation of the national security architecture, to ensure that Somali security forces and institutions comply with applicable national and international law, together with international human rights law, including on the protection of individuals from, inter alia, sexual and gender-based violence, and on the prevention of extrajudicial killings, and the strengthening of internal and external accountability of all relevant security forces and institutions;

(e) To continue measures to implement the plans of action to prevent the unlawful recruitment and use of children in the national armed forces, and to work with specialist agencies, such as the United Nations Children's Fund, to ensure that former child soldiers and children under 18 years of age used in armed conflict are treated as victims and rehabilitated in accordance with international standards;

(f) To realize commitments to ending the prevailing culture of impunity, to hold accountable those who commit human rights violations and abuses, ensuring prompt, independent, impartial, thorough and effective investigations into human rights violations by urgently concluding the establishment of a resourced and independent national human rights commission and by reforming State and traditional justice mechanisms to increase the representation of women in the judiciary, and to improve access to justice for women and children;

(g) To prioritize the enactment of legislation and undertake reforms that respect, protect and promote women's and girls' full enjoyment of all human rights and to allow for the response to and the prevention and elimination of all forms of violence and discrimination against women and girls, including by adopting a zero-tolerance approach to sexual and gender-based violence, child, early and forced marriage and all forms of female genital mutilation, ensuring that those responsible for sexual and gender-based violence, exploitation and abuse are held to account, regardless of their status or rank;

(h) To meet commitments to complete the national reconciliation plan by the end of 2018 in order to promote reconciliation and dialogue at the federal, federal Member State and subnational levels, while recognizing the importance of the valuable assistance provided by the Intergovernmental Authority on Development;

(i) To increase the support and resources allocated to the ministries and institutions responsible for the administration of justice and the protection of human rights, particularly the Ministry for Women and Human Rights Development at the federal and State levels, the judiciary, the police and correctional services;

(j) To implement fully the media protection law, to protect and uphold freedom of expression and a free media, to create a safe and enabling environment in which journalists and human rights defenders can operate free from hindrance and insecurity, to continue efforts to prohibit, prevent and protect against all kidnappings, killings, attacks, acts of intimidation and harassment of journalists, to initiate timely, effective, impartial and transparent investigations into the killings of journalists, and to prosecute all those *responsible for unlawful* acts *in a manner* that is in accordance with the provisions in the media protection law and is consistent with *other applicable national and international* legal obligations;

(k) To consider acceding to and ratifying the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of Persons with Disabilities and the Convention on the Prevention and Punishment of the Crime of Genocide;

(l) To realize commitments made at the Global Disability Summit, particularly by enacting a national disability bill in accordance with the Convention on the Rights of Persons with Disabilities and in consultation with organizations of disabled persons, and by establishing a national disability agency;

(m) To finalize the review of and raise awareness about the new sexual offences bill, to ensure that any bill passed into law reflects international obligations and commitments on the protection of children, women and girls, and to implement it and other laws as necessary to prevent sexual and gender-based violence;

(n) To harmonize national and federal Member State-level political policies and legal frameworks with applicable human rights obligations and other commitments;

(o) To treat former combatants in accordance with applicable obligations under national and international law, in particular international human rights law and international humanitarian law;

(p) To implement the Declaration on Durable Solutions for Somali Refugees and the Reintegration of Returnees in Somalia, adopted in Nairobi on 25 March 2017;

(q) To promote the well-being and protection of all internally displaced persons, including from sexual and gender-based violence, and also from exploitation and abuse committed by State or international military or civilian personnel, to facilitate the voluntary reintegration or return of all internally displaced persons, including the most vulnerable, in safety and with dignity, to ensure a fully consultative process and best practice for relocations, to provide sites that provide safe access to essential food and potable water, basic shelter and housing, appropriate clothing and essential medical services and sanitation;

(r) To ensure unhindered access for humanitarian organizations, to recognize the acute vulnerability of internally displaced persons, to facilitate full, rapid and unimpeded humanitarian access to people in need, wherever they are in Somalia, and to safeguard the neutrality, impartiality and independence of humanitarian actors from political, economic and military interference while remaining sensitive to the needs of persons belonging to ethnic minorities requiring humanitarian assistance;

10. *Stresses* the important role of joint monitoring and reporting on the situation of human rights in Somalia by national and international experts and the Federal Government, and the vital role that those monitoring human rights can play in evaluating and ensuring the success of technical assistance projects, which in turn must be for the benefit of all Somalis;

11. *Underlines* the importance of the realization by the United Nations Assistance Mission in Somalia of its mandate throughout Somalia and the need to ensure synergy with the work of the Office of the United Nations High Commissioner for Human Rights;

12. *Commends* the engagement of the Independent Expert on the situation of human rights in Somalia;[1]

13. *Decides* to renew the mandate of the Independent Expert, under agenda item 10, for a period of one year to assess, monitor and report on the situation of human rights in Somalia with a view to making recommendations on technical assistance and capacity-building in the field of human rights;

14. *Requests* the Independent Expert to continue to work closely with the Federal Government at the national and subnational levels, with all United Nations bodies, including the United Nations Assistance Mission in Somalia, with the African Union, the Intergovernmental Authority on Development and other relevant international organizations, civil society and all relevant human rights mechanisms, and to assist Somalia in the implementation of:

[1] See A/HRC/39/72.

(a) Its national and international human rights obligations;

(b) Human Rights Council resolutions and other human rights instruments, including associated routine reporting;

(c) Recommendations accepted in the context of the universal periodic review;

(d) Other human rights commitments, policies and legislation to promote the empowerment of women, young people and marginalized groups, freedom of expression and assembly, the protection of the media, access to justice for women, and increasing the capacity of ministries and institutions responsible for the administration of justice and the protection of human rights;

15. *Also requests* the Independent Expert to report to the Human Rights Council at its forty-second session and to the General Assembly at its seventy-fourth session;

16. *Requests* the Office of the High Commissioner and other relevant United Nations agencies to provide the Independent Expert with all the human, technical and financial assistance necessary to carry out his mandate fully;

17. *Decides* to remain actively seized of the matter.

41st meeting
28 September 2018

[Adopted without a vote.]